

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

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In re:

LEAKH N. BHOGE,

Debtor.

**ADVERSARY COMPLAINT**

Case No. 16-11064

LEAKH N. BHOGE,

Plaintiff,

against

Adversary No.

SPECIALIZED LOAN SERVICING LLC,

Defendant.

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Plaintiff Leakh N. Bhoge, by his attorneys Fairbanks Fletcher Law PLLC, complaining of Defendant Specialized Loan Servicing LLC (hereafter "Secured Creditor"), alleges as follows:

1. Leakh N. Bhoge ("Plaintiff") filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code on June 8, 2016. Andrea E. Celli was designated as Trustee. Debtor's Chapter 13 plan has not yet been confirmed.
2. This is an action under 13 U.S.C. §506(a)(1) to determine the validity, priority, or extent of a lien or other interest in property.
3. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§157 and 1334, and this action constitutes a core proceeding.
4. Venue is proper in the Northern District of New York pursuant to 28 U.S.C. §§1408-1409.
5. Upon information and belief, Defendant Specialized Loan Servicing LLC is the holder of the note and/or servicer of real property located at 1008 Albany Street, Schenectady, New York.

**AS AND FOR A CLAIM FOR RELIEF TO MODIFY MORTGAGE:**

6. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 5 of the Complaint.
7. Debtor owns certain real property located at 1008 Albany Street, Schenectady, New York (hereinafter referred to as the "Property").

8. The Property has a value of \$28,000.00, as evidenced by the attached appraisal by Doreen A. Ross, Certified Residential Appraiser, completed on July 7, 2016 (**Exhibit "A," p.7**). This appraisal includes both outside and inside inspection (**Exhibit "A"**).
9. The Property is a multi-family building.
10. The Property is not the Debtor's principal residence as set forth in 11 U.S.C. §1332(b)(2), and, therefore, Debtor is permitted to modify the rights of a secured claim relating to the Property.
11. At the time of filing, the claimed lien in favor of Secured Creditor had a balance of \$117,605.03, as evidenced by the Proof of Claim #9, filed by prior creditor CitiMortgage, Inc., which was subsequently transferred to Defendant Specialized Loan Servicing LLC (**Exhibit "B"**).
12. The Proof of Claim does not list a value of the property (**Exhibit "B"**).
13. Pursuant to 11 U.S.C. §506(a)(1), Debtor proposes to pay the value of the mortgage secured by the Property, in the amount of \$28,000.00, with interest at 4.5% per annum, for a period of 60 months, at a monthly payment of \$522.00, inside the Plan.
14. Based upon the foregoing, Debtor seeks modification of Secured Creditor's mortgage as follows: The principal amount of \$28,000.00 shall be paid in full, with interest at a rate of 4.5% per annum, with payments in the amount of \$522.00 for a term of 60 months, inside the Plan.

**WHEREFORE**, Debtor requests an order and judgment:

- A. On the First Claim for Relief, declaring the Secured Creditor's mortgage shall be paid in the amount of \$28,000.00 with interest at the rate of 4.5% per annum, with payments in the amount of \$522.00 for a term of 60 months, inside the Plan, pursuant to 11 U.S.C. §506(a)(1); and
- B. Secured Creditor shall issue a Satisfaction of Mortgage and deliver the same to the Chapter 13 Standing Trustee within 7 days following service of an Order granting the relief requested herein, to be held in escrow by the Chapter 13 Trustee for the pendency of the case, to be released as follows:
  - a. To the Chapter 13 Debtor upon sale of the Property or discharge of the Chapter 13 case; or

- b. To the Secured Creditor upon dismissal of the Chapter 13 case;
- C. And for such other relief as this Court deems just and proper.

Dated: June 29, 2018  
Saratoga Springs, NY

  
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